

**ASSEMBLY BILL**

**No. 1563**

**Introduced by Assembly Member Nakanishi**

February 21, 2003

---

---

An act to amend Section 1250 of the Health and Safety Code, and to amend Section 14132.25 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1563, as introduced, Nakanishi. Medi-Cal: subacute care.

Existing law provides for the licensure and regulation of health facilities, as defined, by the State Department of Health Services.

Existing law also provides for the Medi-Cal program, which is administered by the department, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Existing law requires the department to establish a subacute care program in health facilities in order to more effectively use available Medi-Cal funding while simultaneously ensuring needed services for subacute care patients.

This bill would make technical changes to provisions relating to health facilities and Medi-Cal subacute care.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, “health facility” means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) “General acute care hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital, may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

A “general acute care hospital” includes a “rural general acute care hospital.” However, a “rural general acute care hospital” shall not be required by the department to provide surgery and anesthesia services. A “rural general acute care hospital” shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer

1 Grouping for Efficiency Comparison, dated December 20, 1982,  
2 and has no more than 76 acute care beds and is located in a census  
3 dwelling place of 15,000 or less population according to the 1980  
4 federal census.

5 (b) “Acute psychiatric hospital” means a health facility having  
6 a duly constituted governing body with overall administrative and  
7 professional responsibility and an organized medical staff that  
8 provides 24-hour inpatient care for mentally disordered,  
9 incompetent, or other patients referred to in Division 5  
10 (commencing with Section 5000) or Division 6 (commencing with  
11 Section 6000) of the Welfare and Institutions Code, including the  
12 following basic services: medical, nursing, rehabilitative,  
13 pharmacy, and dietary services.

14 (c) “Skilled nursing facility” means a health facility that  
15 provides skilled nursing care and supportive care to patients whose  
16 primary need is for availability of skilled nursing care on an  
17 extended basis.

18 (d) “Intermediate care facility” means a health facility that  
19 provides inpatient care to ambulatory or nonambulatory patients  
20 who have recurring need for skilled nursing supervision and need  
21 supportive care, but who do not require availability of continuous  
22 skilled nursing care.

23 (e) “Intermediate care facility/developmentally disabled  
24 habilitative” means a facility with a capacity of 4 to 15 beds that  
25 provides 24-hour personal care, habilitation, developmental, and  
26 supportive health services to 15 or fewer developmentally  
27 disabled persons who have intermittent recurring needs for  
28 nursing services, but have been certified by a physician and  
29 surgeon as not requiring availability of continuous skilled nursing  
30 care.

31 (f) “Special hospital” means a health facility having a duly  
32 constituted governing body with overall administrative and  
33 professional responsibility and an organized medical or dental  
34 staff that provides inpatient or outpatient care in dentistry or  
35 maternity.

36 (g) “Intermediate care facility/developmentally disabled”  
37 means a facility that provides 24-hour personal care, habilitation,  
38 developmental, and supportive health services to developmentally  
39 disabled clients whose primary need is for developmental services

1 and who have a recurring but intermittent need for skilled nursing  
2 services.

3 (h) “Intermediate care facility/developmentally  
4 disabled—nursing” means a facility with a capacity of 4 to 15 beds  
5 that provides 24-hour personal care, developmental services, and  
6 nursing supervision for developmentally disabled persons who  
7 have intermittent recurring needs for skilled nursing care but have  
8 been certified by a physician and surgeon as not requiring  
9 continuous skilled nursing care. The facility shall serve medically  
10 fragile persons who have developmental disabilities or  
11 demonstrate significant developmental delay that may lead to a  
12 developmental disability if not treated.

13 (i) (1) “Congregate living health facility” means a residential  
14 home with a capacity, except as provided in paragraph (4), of no  
15 more than six beds, that provides inpatient care, including the  
16 following basic services: medical supervision, 24-hour skilled  
17 nursing and supportive care, pharmacy, dietary, social,  
18 recreational, and at least one type of service specified in paragraph  
19 (2). The primary need of congregate living health facility residents  
20 shall be for availability of skilled nursing care on a recurring,  
21 intermittent, extended, or continuous basis. This care is generally  
22 less intense than that provided in general acute care hospitals but  
23 more intense than that provided in skilled nursing facilities.

24 (2) Congregate living health facilities shall provide one of the  
25 following services:

26 (A) Services for persons who are mentally alert, physically  
27 disabled persons, who may be ventilator dependent.

28 (B) Services for persons who have a diagnosis of terminal  
29 illness, a diagnosis of a life-threatening illness, or both. Terminal  
30 illness means the individual has a life expectancy of six months or  
31 less as stated in writing by his or her attending physician and  
32 surgeon. A “life-threatening illness” means the individual has an  
33 illness that can lead to a possibility of a termination of life within  
34 five years or less as stated in writing by his or her attending  
35 physician and surgeon.

36 (C) Services for persons who are catastrophically and severely  
37 disabled. A catastrophically and severely disabled person means  
38 a person whose origin of disability was acquired through trauma  
39 or nondegenerative neurologic illness, for whom it has been  
40 determined that active rehabilitation would be beneficial and to



1 whom these services are being provided. Services offered by a  
2 congregate living health facility to a catastrophically disabled  
3 person shall include, but not be limited to, speech, physical, and  
4 occupational therapy.

5 (3) A congregate living health facility license shall specify  
6 which of the types of persons described in paragraph (2) to whom  
7 a facility is licensed to provide services.

8 (4) (A) A facility operated by a city and county for the  
9 purposes of delivering services under this section may have a  
10 capacity of 59 beds.

11 (B) A congregate living health facility not operated by a city  
12 and county servicing persons who are terminally ill, persons who  
13 have been diagnosed with a life-threatening illness, or both, that  
14 is located in a county with a population of 500,000 or more persons  
15 may have not more than 25 beds for the purpose of serving  
16 terminally ill persons.

17 (C) A congregate living health facility not operated by a city  
18 and county serving persons who are catastrophically and severely  
19 disabled, as defined in subparagraph (C) of paragraph (2) that is  
20 located in a county of 500,000 or more persons may have not more  
21 than 12 beds for the purpose of serving catastrophically and  
22 severely disabled persons.

23 (5) A congregate living health facility shall have a  
24 noninstitutional, homelike environment.

25 (j) (1) “Correctional treatment center” means a health facility  
26 operated by the Department of Corrections, the Department of the  
27 Youth Authority, or a county, city, or city and county law  
28 enforcement agency that, as determined by the state department,  
29 provides inpatient health services to that portion of the inmate  
30 population who do not require a general acute care level of basic  
31 services. This definition shall not apply to those areas of a law  
32 enforcement facility that houses inmates or wards that may be  
33 receiving outpatient services and are housed separately for reasons  
34 of improved access to health care, security, and protection. The  
35 health services provided by a correctional treatment center shall  
36 include, but are not limited to, all of the following basic services:  
37 physician and surgeon, psychiatrist, psychologist, nursing,  
38 pharmacy, and dietary. A correctional treatment center may  
39 provide the following services: laboratory, radiology, perinatal,  
40 and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the California Department of Corrections from obtaining a correctional treatment center license at these sites.

(k) "Nursing facility" means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare program under Title XVIII of the federal Social Security Act or as a nursing facility in the federal medicaid program under Title XIX of the federal Social Security Act, or as both.

(l) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections, or the Department of the Youth Authority, shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

SEC. 2. Section 14132.25 of the Welfare and Institutions Code is amended to read:

14132.25. (a) On or before July 1, 1983, the State Department of Health Services shall establish a subacute care program in health facilities in order to more effectively use the limited Medi-Cal dollars available while, at the same time, ensuring needed services for these patients. The subacute care program shall be available to patients in *health* facilities who meet subacute care criteria. Subacute care may be provided by any

1 facility designated by the director as meeting the subacute care  
2 criteria, ~~and which~~ *that* has an approved provider participation  
3 agreement with the State Department of Health Services.

4 ~~The~~

5 (b) *The* State Department of Health Services shall develop a  
6 rate of reimbursement for this subacute care program.  
7 Reimbursement rates ~~will~~ *shall* be determined in accordance with  
8 methodology developed by the State Department of Health  
9 Services, specified in regulation, and may include the following:

10 (1) ~~All inclusive~~ *All-inclusive* per diem rates.

11 (2) Individual patient specific rates according to the needs of  
12 the individual subacute care patient.

13 (3) Other rates subject to negotiation with the health facility.

14 ~~However, reimbursement~~

15 (c) *Reimbursement* at subacute care rates, *as specified in*  
16 *subdivision (b)*, shall only be implemented when funds are  
17 available for this purpose pursuant to the annual Budget Act.

18 ~~The~~

19 (d) *The* department may negotiate and execute an agreement  
20 with any health facility ~~which~~ *that* meets the standards for  
21 providing subacute care. An agreement may be negotiated or  
22 established between the health facility and the department for  
23 subacute care based on individual patient assessment. The  
24 department shall establish level of care criteria and appropriate  
25 utilization controls for patients eligible for the subacute care  
26 program.

27 ~~For~~

28 (e) *For the* the purposes of this section, subacute patient care  
29 shall be defined by the ~~state~~ department based on the results of its  
30 study pursuant to Chapter 1211 of the Statutes of 1980.

31 SEC. 3. This act is an urgency statute necessary for the  
32 immediate preservation of the public peace, health, or safety  
33 within the meaning of Article IV of the Constitution and shall go  
34 into immediate effect. The facts constituting the necessity are:

35 In order to protect the welfare of subacute care patients in  
36 licensed health facilities, it is necessary that this act take effect  
37 immediately.